

Karma M. Giulianelli (SBN 184175)
karma.giulianelli@bartlitbeck.com
BARTLIT BECK LLP
1801 Wewetta St., Suite 1200
Denver, Colorado 80202
Telephone: (303) 592-3100

Brian C. Rocca (SBN 221576)
brian.rocca@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
San Francisco, CA 94105-1596
Telephone: (415) 442-1000

Hae Sung Nam (*pro hac vice*)
hnam@kaplanfox.com
KAPLAN FOX & KILSHEIMER LLP
850 Third Avenue
New York, NY 10022
Tel.: (212) 687-1980

Counsel for Defendants Google LLC et al.

*Co-Lead Counsel for the Proposed Class in In re
Google Play Consumer Antitrust Litigation*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE GOOGLE PLAY CONSUMER
ANTITRUST LITIGATION

Case No. 3:20-cv-05761-JD

**JOINT STATEMENT REGARDING
MOTION PRACTICE**

Pursuant to this Court’s Minute Entry Order dated December 3, 2020, *In re Google Play Consumer Antitrust Litigation*, Case No. 3:20-cv-05761-JD (“*Consumer Action*”), ECF No. 108, Consumer Plaintiffs and Defendants Google LLC; Google Ireland Limited; Google Commerce Limited; Google Asia Pacific Pte. Limited; and Google Payment Corp. (collectively, “Google”)¹ in the above-captioned action, by and through their undersigned counsel, submit this Joint Statement regarding the scope and timing of Google’s motion to dismiss Consumer Plaintiffs’ Consolidated Consumer Class Action Complaint (“Consolidated Complaint”) filed on December 28, 2020. *Consumer Action*, ECF No. 132.

Following Consumer Plaintiffs’ filing of their Consolidated Complaint, the Parties met and conferred to discuss an efficient approach to any motion practice related to the Consumer Plaintiffs’ Consolidated Complaint.

Proposal Regarding Response to Consolidated Consumer Complaint

Google has reviewed the Consumer Plaintiffs’ Consolidated Complaint and believes it should be dismissed for the same reasons set forth in Google’s motion in the *Epic Action* and *Developer Action*. See *Epic Games Inc. v. Google LLC et al.*, Case No. 3:20-cv-05671-JD (“*Epic Action*”), ECF No. 91 (motion to dismiss); *In re Google Play Developer Antitrust Litigation*, Case No. 3:20-cv-05792-JD (“*Developer Action*”), ECF No. 71 (motion to dismiss). Consumer Plaintiffs would oppose any such motion to dismiss.

The parties recognize, however, potential efficiencies in holding further briefing in abeyance pending the Court’s consideration of the motions pending in the *Epic Action* and *Developer Action*. Google and the Consumer Plaintiffs therefore jointly propose the following:

- Google and Consumer Plaintiffs agree that Google shall hold any response to the Consumer Complaint in abeyance until the Court addresses the pending motions in the *Epic Action* and *Developer Action*.

¹ Not all Google entities have been served in each of the actions, although the parties are conferring about service issues. The submission of this proposal and use of the definition, “Google,” does not constitute a waiver of service as to any particular defendant.

- Following the Court's order on the pending motions, Google and Consumer Plaintiffs will meet and confer to determine an efficient process for addressing pleadings issues, including potential motion practice, and shall submit a joint proposal to the Court within 14 days of said order.
- Google expressly reserves all arguments and defenses with respect to the pleadings and otherwise.
- Consumer Plaintiffs expressly reserve all arguments and positions with respect to the pleadings and otherwise.

Notice Regarding Hearing Date Conflict on January 28, 2021

As the parties advised the Court in their Joint Case Management Statement dated January 7, 2021, the Judicial Panel on Multidistrict Litigation (J.P.M.L.) has scheduled a hearing in *In re Google Antitrust Litigation*, MDL No. 2981, which concerns these Google Play-related matters, on January 28, 2021 at 8:00 a.m. pacific, and there are multiple MDL matters on the J.P.M.L.'s calendar that day. That MDL hearing therefore overlaps with the noticed hearing on Google's motion to dismiss in the *Epic Action* and *Developers Action*, which is currently set for January 28, 2021 at 10:00 a.m. pacific.

In light of the conflict, Google has advised the parties of its intention to notice a new hearing date, subject to the Court's approval. Counsel for Consumer Plaintiffs, Developer Plaintiffs and Epic Games do not oppose Google's request and are available on the following date if the Court's calendar will so accommodate: February 18, 2021 at 10:00 a.m. pacific.

Dated: January 11, 2021

KAPLAN FOX & KILSHEIMER LLP
Hae Sung Nam

BARTLIT BECK LLP
Karma M. Giulianelli

By: /s/ Hae Sung Nam
Hae Sung Nam

*Co-Lead Counsel for the Proposed Class in
In re Google Play Consumer Antitrust Litigation*

1 Dated: January 11, 2021

MORGAN, LEWIS & BOCKIUS LLP

Brian C. Rocca

Sujal J. Shah

Minna L. Naranjo

Rishi P. Satia

Michelle Park Chiu

5
6 By: /s/ Brian C. Rocca

Brian C. Rocca

7 *Counsel for Defendants Google LLC et al.*

E-FILING ATTESTATION

I, Brian C. Rocca, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that each of the signatories identified above has concurred in this filing.

/s/ Brian C. Rocca

Brian C. Rocca